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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,559	12/04/2003	Yasuki Tamura	1472-0313P	5457
2292	7590	02/13/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			TRAN, DIEM T	
			ART UNIT	PAPER NUMBER
			3748	
DATE MAILED: 02/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/726,559

Applicant(s)

TAMURA ET AL.

Examiner

Diem Tran

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 17 is/are rejected.
- 7) ☐ Claim(s) 2, 3, 10-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-9, 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Tamura et al. (US Patent 6,729,123).

Regarding claims 1, 9, 17, Tamura discloses an exhaust emission control apparatus for an internal combustion engine, comprising:

exhaust flow suppressing means provided in an exhaust system of the internal combustion engine mounted in a vehicle, for suppressing exhaust flow when the internal combustion engine is started (see col. 2, lines 55-63); operative state detecting means for detecting whether a period of time elapsed after the vehicle starts accelerating from stand still is equal to or shorter than a predetermined period of time according to an operative state of the internal combustion engine (see col. 10, lines 60-63, col. 11, lines 15+); and exhaust flow control limiting means causes said exhaust flow control means to reduce the suppression of exhaust flow when detecting that the period of time elapsed after the vehicle starts accelerating from standstill is equal to the predetermined period of time (see Figures 5, 6, col. 5, lines 55-67, col. 6, lines 1-26, col. 7, lines 5+, col. 10, lines 59-67, col. 11, lines 41+).

Regarding claims 4, 6, Tamura further discloses detecting the internal combustion engine is in cold state or not; and said exhaust flow control means suppresses the exhaust flow in the exhaust system when detecting that the internal combustion engine is in cold state within the predetermined temperature range (see Figure, col. 2, lines 55-63, col. 3, lines 10-33).

Regarding claim 5, Tamura further discloses reducing the suppression of the exhaust flow when said cold state detecting means detects that the internal combustion engine is in cold state and is equal to a predetermined temperature (see col. 9, lines 6-17, 59-67).

Regarding claim 7, Tamura further discloses causing said ignition timing control means to retard the ignition timing (see col. 9, lines 6-11).

Regarding claim 8, Tamura further discloses causing said air fuel ratio control means to control the air fuel ratio to a rich air fuel ratio (see step S38 in Figure 5).

Allowable Subject Matter

Claims 2, 3, 10-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 18 is allowed.

Conclusion

Any inquiry concerning this communication from the examiner should be directed to Examiner Diem Tran whose telephone number is (571) 272-4866. The examiner can normally be reached on Monday -Friday from 8:00 a.m.- 6:00p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (571) 272-4859. The fax number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 800-786-9199 (toll-free).



Diem Tran
Patent Examiner
Art unit 3748

DT
February 1, 2006



THOMAS DENION
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